

State of New Jersey
Department of Labor and Workforce Development
Board of Review

MEMORANDUM

To: Cornelia Calderone, Chair, Joseph Sieber,
Vice Chairman, and Frank Serico, Member

From: Gerald Yarbrough, Executive Secretary
Board of Review

Subject: Minutes of the June 21, 2006
Board of Review Meeting

Date: June 26, 2006

THESE MINUTES HAVE NOT BEEN FORMALLY APPROVED AND ARE SUBJECT TO CHANGE OR MODIFICATION BY THE BOARD OF REVIEW AT ITS NEXT MEETING. NO DECISION OF THE BOARD OF REVIEW IS FINAL UNTIL IT HAS BEEN MAILED TO THE INTERESTED PARTIES.

1. **FORMAL OPENING:** A regular meeting of the Board of Review, Department of Labor was held on Wednesday, June 21, 2006 at 9:00 a.m. at the Board of Review offices, Labor Building, John Fitch Plaza, 7th Floor, Large Conference Room, Trenton, New Jersey. Notice of said meeting was posted in the Board of Review's office, filed with the Secretary of State, and published annually in *The Trenton Times* and *The Star Ledger*. It was noted that the next regular meeting of the Board of Review is scheduled for Wednesday, June 28, 2006 at 9:00 a.m. at the Board of Review offices, Labor Building, John Fitch Plaza, 7th Floor, Large Conference Room, Trenton, New Jersey.

Roll Call: Present: Ms. Calderone, Chair
Mr. Sieber, Vice Chair
Mr. Serico, Member
Mr. Yarbrough, Executive Secretary

2. Following a motion by Mr. Serico and seconded by Mr. Sieber, the minutes of the June 14, 2006 meeting were approved.

3. New Business

(a) 90,843

Ms. Abrunzo presented this case that involved a claimant who was operating a business during the same period in which he claimed and received unemployment benefits. The claimant acknowledged operating the business when he was confronted by representatives of the Division. The Appeal Tribunal had held the claimant liable to refund benefits, a fine and a one year disqualification from receiving benefits. After discussion, the Board voted to affirm the Appeal Tribunal.

(b) 84,259

Ms. Abrunzo described this case that involved a claimant who was employed as a pharmacist and was discharged for failing to inform the employer of a prior arrest for possession of a controlled dangerous substance. The Appeal Tribunal had held the claimant disqualified for benefits under N.J.S.A. 43:21-5(b). After discussion, the Board voted to affirm the Appeal Tribunal.

(c) 107,496

As presented by Mr. Gitter, this case involved a claimant who had a history of full-time work and supplemented her full-time work with a part-time assignment from a temporary help agency for a period of two days. She stopped working part time when her full-time hours changed. The claimant was laid off from her full-time job and, subsequently, refused an assignment from the temporary help agency. The assignment was not within the claimant's work experience and former rate of pay. The claimant also requested the agency not contact her for work as she found other part-time employment. The Appeal Tribunal had held the claimant disqualified for benefits under N.J.S.A. 43:21-5(c), ineligible for benefits under N.J.S.A.43:21-(c)(1), and liable for a refund. The Board noted that the claimant had good cause for refusing the offer of work and her failure to use the services of the temporary service agency did not render her unavailable for work. Also, the Appeal Tribunal lacked jurisdiction regarding the refund. As a result, the Board voted to reverse the Appeal Tribunal regarding the disqualification under N.J.S.A. 43:21-5(c), set aside the refund, and remand the matter of the claimant's availability for work from January 15, 2006 to the Appeal Tribunal . Mr. Gitter will prepare the decision.

(d) 73, 436

As described by Mr. Gitter, this case involved a claimant who left work because she was dissatisfied with the conditions of work as well as some of the employer's business practices. The Appeal Tribunal had held the claimant disqualified for benefits under N.J.S.A. 43:21-5(a). After discussion, the Board voted to affirm the Appeal Tribunal.

(e) 108, 412

Mr. Maddow presented this case that involved a claimant who left work voluntarily with one employer (employer #1) to relocate to another area. The claimant left work with another employer (employer #2) because she was not earning enough money and as a result of a medical condition. The claimant submitted medical documentation to the Appeal Tribunal and the Appeal Tribunal attempted to authenticate the documentation. The Appeal Tribunal had held the claimant disqualified for benefits under N.J.S.A. 43:21-5(a) as a result of her separation from employer #2, and her wages from employer #2 were sufficient to remove the disqualification from leaving work with employer #1. The Board noted that the record is lacking

regarding whether the claimant complained of her medical condition as well as her weekly wages. The Board also noted that the Appeal Tribunal did not rule on whether the claimant had good cause attributable to the work for voluntary leaving work with employer #1. As a result, the Board voted to remand the case for a "de novo" hearing with another Appeal Tribunal. Mr. Maddow will prepare the remand.

There being no further business to transact, a motion was made by Mr. Sieber to adjourn the meeting. Mr. Serico seconded the motion.

SUBMITTED FOR APPROVAL:

Gerald Yarbrough
Executive Secretary

GY:gs